

Appl. No. 10/765,106
Amd. dated November 1, 2005
Reply to Office Action of 08/03/2005

REMARKS

**Reconsideration And Allowance
Are Respectfully Requested.**

Claims 1-15 are currently pending. Claims 1, 6 and 11 have been amended. No claims have been canceled. No new claims have been added. No new matter has been added. Reconsideration is respectfully requested.

Applicant's representative would first like to thank Primary Examiner Blau for the courtesies extended during the recent interview. The prior art of record was discussed, however, no agreement was reached.

With regard to the outstanding prior art rejections, claims 1-15 stand rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-5 of U.S. Patent No. 6,723,001. Claims 11, 12, 14 and 15 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,152,533 to Radakovich. Claims 1, 2, 4-7, 9-12, 14 and 15 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,511,386 to Cacicedo in view of U.S. Patent No. 6,506,128 to Bloom, Jr., U.S. Patent No. 5,152,533 to Radakovich and U.S. Patent No. 5,085,891 to Takeuchi. Claims 3, 8 and 13 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Cacicedo in view of Bloom, Radakovich and Takeuchi and further in view of U.S. Patent No. 5,779,559 to Eberle or U.S. Patent No. 4,426,083 to Dishner, Jr. Claims 6, 7, 9-12, 14 and 15 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Bloom, Jr. in view of Radakovich and Takeuchi. Claims 8 and 13 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Bloom in view of Radakovich and Takeuchi and further in view of Eberle or Dishner, Jr. Claims 11, 12 and 15 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Radakovich and Takeuchi. Claim

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13 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Radakovich and Takeuchi and further in view of Eberle or Dishner, Jr. These rejections are respectfully traversed in view of the following remarks.

With regard to the rejection of claims 1-15 under the judicially created doctrine of obviousness-type double patenting, this rejection is deemed improper as all of the pending claims include the alignment system limitation. This limitation is patentably distinct over the shape that was claimed in claims 1-5 of U.S. Patent No. 6,723,001. As such, Applicant respectfully requests that this rejection be withdrawn.

With regard to the pending independent claims and the rejections based upon prior art, Applicant has set forth a unique alignment system for putters which is neither disclosed, taught nor shown in the prior art. The combination of references cited in the Office Action fails to teach, individually or when combined, the claimed intersecting lines on the end of a golf club handle.

The Office Action generally relies upon Radakovich alone and a combination of Radakovich and Takeuchi to teach Applicant's alignment system.

More particularly, claims 11, 12, 14 and 15 stand rejected under Radakovich alone. It is Applicant's opinion the rejection is improper as Radakovich fails to meet all of the claimed limitations. In addition, this rejection is confusing. The rejection starts off referencing the embodiment in Fig. 4, but then proceeds to discuss the embodiment in Fig. 5.

With regard to the application of Radakovich, the so-called first alignment line 48 is not perpendicular to the unidentified boundary line, nor is it perpendicular to arrow 46. There is no disclosure in Radakovich as to a boundary line, structure and/or function. Thus, the Office Action

merely assumes the boundary line is parallel to the ball striking face, as the reference itself does not teach this. Radakovich at best teaches a sighting device with meeting lines, but they do not intersect to form four angles as now claimed. Further, they do not intersect to form a cross as required by claim 15.

The device of Radakovich is for sighting a club relative to a target and not aligning the club relevant to the ball. Applicant has further defined intersecting to require the two lines to form four angles. The "T" in Fig. 4 of Radakovich and the made up "T" in Fig. 5 of Radakovich (i.e., the "T" formed by the boundary line and either of the arrows) do not form four angles and do not meet the limitations of claim 11. Radakovich also does not meet the limitation of a cross as set forth in claim 15.

The present claims substantially define a cross at the butt end of a golf club handle. However, Radakovich in Figures 4 and 5 discloses a "T" or made up "T" at the butt end of the golf club. The "T" is positioned at the butt end of the golf club with the underlying concept of Radakovich in mind. That is, to assist the golfer in sighting down the fairway as he or she positions themselves to strike a golf ball.

The Office Action suggests that it would be obvious to replace the "T" of Radakovich with a cross as claimed by Applicant. This could not be further from the truth. Specifically, the cross of the present invention is designed to provide the golfer with both forward and rearward alignment as he or she stands over a putt. This assists the golfer in properly aligning both the back swing and the forward swing during his or her putt; both being critical to proper putting. In contrast, Radakovich is only concerned with sighting down the fairway in a forward direction. As such, Radakovich only provides a "T". In fact, the embodiment shown in Figure 5 shows a sighting device where the rear portion of the sighting device is blackened out. This appears to be designed so that the attention of the golfer is

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always directed in a forward direction. Similarly, Figure 4 employs a "T" with nothing along the backside thereof. Once again, this is designed to provide the golfer with forward facing sighting and direct a golfer's eyes in the forward direction.

If, as the Office Action argues, the "T" of Radakovich is replaced with a cross, one of the underlying concepts presented by Radakovich would be destroyed. That is, by providing a cross the golfer would not be solely directed in a forward direction down the fairway, but would be directed to look in both a rearward and a forward direction. This would destroy or at least hinder the purpose of the sighting device disclosed by Radakovich. As such, it is Applicant's opinion this assertion is improper and the rejection should be withdrawn.

Radakovich further fails to show the structure of claim 14 wherein the upper edge of its handle includes alignment indicia defined by at least a first alignment line in a direction perpendicular to the first plane of the ball striking face and a second alignment line on the upper edge of the handle. The second alignment line is perpendicular to the first alignment line and parallel to the first plane of the ball striking face. The first alignment line is longer than the second alignment line.

In the sighting system of Radakovich, the longer or squaring line (59 or 92) is for squaring the club face with the ball. This is exactly opposite of the pending claims. Even if the device of Radakovich was formed as a sticker, the sticker would need to be 3-dimensional and tilted to function as disclosed by Radakovich. That is, the sighting device needs to be tilted with regard to the butt end of the club in order to function as a sighting device as contemplated by Radakovich.

With regard to the combination of Radakovich and Takeuchi, the Office Action states Takeuchi discloses alignment lines for grip positioning on a shaft being on a flat surface of a grip and being indicia

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filling up the entire length and width of a grip top flat surface except the center. The Office Action contends that in view of the teachings of Takeuchi it would be obvious to modify Radakovich "to have the alignment lines being indicia and taking up the entire length, width and center of a grip top flat surface in order to minimize the number of parts needed for a grip by having indicia and in order to be more visually visible for a golfer by using the entire surface for the alignment indicia."

The Office Action, however, overlooks the fact that neither of these references disclose or suggest intersecting lines as alignment indicia on the butt end of a putter type club handle. The Office Action further overlooks the fact that neither of these references disclose or suggest intersecting lines as indicia on the butt end of any type of club handle.

It is Applicant's opinion these two references aren't even combinable and, even if somehow combinable, don't result in the claimed invention. Still further, the motivation for combining makes no sense and is unsupported by both the prior art and what is known by those skilled in the golf industry. The sighting device and lines of Radakovich do form indicia which take up the entire length, width and center of a grip top flat surface. As such, how and why does Takeuchi teach it to be obvious to modify Radakovich to have the alignment lines being indicia and taking up the entire length, width and center of a grip top flat surface to minimize the number of parts needed for a grip and in order to be more visible?

Modifying Radakovich as suggested in the Office Action would destroy the invention contemplated by Radakovich. That is, converting the sighting member into indicia lines statically affixed to the butt end as proposed would render the device inoperative, as the user would no longer be able to simply adjust the device for sighting at a desired loft. As one can surely appreciate, the loft required

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to hit a target is not the same for every golf shot.

As stated in previous responses, Takeuchi fails to teach the claimed alignment system and/or intersecting lines. Takeuchi does show lines 5a, 6, 7 and 8 on the end of a golf club handle, but none of these lines intersect. In fact, Takeuchi has no desire for the indicia lines to intersect as intersecting lines would be contrary to Takeuchi's invention. The length of the lines disclosed by Takeuchi are different so one can easily distinguish the angular intervals when adjusting the grip's position. For example, short lines 8 indicate 11.25 degrees and slightly longer lines 7 indicate 22.5 degrees and long lines 6 indicate 45 degrees and lines 5a function as reference lines. When fitting the grip of Takeuchi on a shaft, the angle of the grip can be easily determined by knowing the distinction between gradation lines. Ergo, if the lines intersected they would no longer function as gradations as the lines would not be readily distinguishable from one another.

Again, the lines disclosed by Takeuchi in the Abstract are to enable "a golfer to fit the grip on the rear portion of the club shaft so that a fitting angle of the grip relative to a club face is accurately easily adjusted to a correct angle in accordance with his particular putting". The lines are not for aligning a putting stroke.

Still further, even if somehow there was motivation to combine the teachings of Takeuchi and Radakovich, the likelihood of success in producing Applicant's invention does not exist. The lines of Takeuchi would not be visible beyond the boundary line as this area is completely shaded. The area is shaded for a purpose as previously stated

Applicant's alignment marks must intersect to form four angles. The cross-hair alignment marks on the top of the putter handle are in a direct line of sight of the golfer as he applies his hands

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to the handle and lines up the putt with the intended target. The longer alignment line, across the longitudinal axis of the oval cross section of the top of the handle, is preset exactly at 90° to the plane of the putter face and, therefore, reflects the direction the putter face is aimed toward the intended target. The second line of the cross hair is parallel to the direction of the putter face. Once an intended target line is selected, this second line must be perpendicular to the target direction line in order for the club face to be square to the target. The golfer is able to use these alignment marks in conjunction with similar markings on the putter head as an aid to putter head alignment, as well as stroke direction, to ensure the club face is maintained perpendicular to the target during the execution of a putting stroke.

With regard to motivation to combine, the one set forth in the Office Action clearly does not come from the references themselves and appears merely to be made up in order to formulate a rejection. Neither Radakovich nor Takeuchi discuss or teach having alignment lines being indicia and taking up the entire length, width and center of a grip top flat surface "in order to minimize parts needed for a grip". Further, neither Radakovich nor Takeuchi discuss or teach having alignment lines being indicia and taking up the entire length, width and center of a grip top flat surface "in order to be more visually visible for a golfer by using the entire surface for the alignment indicia". Still further, Radakovich is for swing alignment and Takeuchi is for grip alignment so neither is concerned with the same problem. As such, it appears impermissible hindsight is being used to stretch two references to create a rejection.

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Alignment for a golf putting stroke as claimed is not the same as fitting a grip on a club shaft as disclosed by Takeuchi or alignment for a golf swing as taught by Radakovich. Further, and as discussed above, intersecting lines would be contrary to the Takeuchi invention and fixed indicia lines would be contrary to Radakovich. Still further, the combined teachings of Radakovich and Takeuchi would fail to produce Applicant's claimed invention.

Since all of the claims include the limitation of intersecting indicia lines and this feature has now been shown to be novel and not taught by any of the cited references individually or in combination, the rejections involving the handle shape based upon Cacicedo, Bloom, Eberle and Dishner are not individually addressed in detail. None of the cited references disclose the claimed handle shape. Applicant's cross-sectional shape is the same along its entire length. In Cacicedo the shape changes as it tapers from top to bottom. In Bloom there are no flat sides and it tapers from top to bottom. In Eberle the radius of both rounded edges are the same. In Dishner again the radius of both rounded edges are the same.

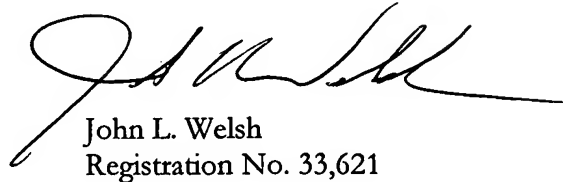
It has now been shown that the rejections based upon Radakovich alone and Radakovich in combination with Takeuchi and other references are improper and not obvious. Further, it has been shown that even if combined the resulting combination does not produce Applicant's claimed invention, but in fact destroys both Radakovich and Takeuchi. Therefore, the outstanding rejections should be withdrawn and the application passed to issuance.

It is believed that this case is in condition for allowance and reconsideration thereof and early issuance is respectfully requested.

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If it is felt that an interview would expedite prosecution of this application, please do not
hesitate to contact Applicant's representative at the below number.

Respectfully submitted,



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